

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON**

IN RE: ETHICON, INC. PELVIC REPAIR SYSTEM PRODUCTS LIABILITY LITIGATION	Master File No. 2:12-MD-02327 MDL No. 2327
THIS DOCUMENT RELATES TO: WAVE 1 CASES	JOSEPH R. GOODWIN U.S. DISTRICT JUDGE

**DEFENDANTS' MOTION TO EXCLUDE
CERTAIN OPINIONS OF MICHAEL THOMAS MARGOLIS, M.D.**

Defendants Ethicon, Inc. and Johnson & Johnson (collectively, "Ethicon"), pursuant to Rule 702 of the Federal Rules of Evidence and *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1993), move to exclude certain opinions of Michael Thomas Margolis, M.D. In support of this motion, Ethicon states:

1. Dr. Margolis's opinions about Ethicon's knowledge, state of mind, or bad acts should be excluded because he has no specialized knowledge to testify about what Ethicon did or did not know.

2. Dr. Margolis's opinions regarding the adequacy of the TVT-O and TVT IFUs should be excluded because he has no expertise in medical-device warnings or regulatory requirements, and he fails to identify any reliable scientific evidence establishing that the warnings were inadequate.

3. Dr. Margolis's opinions that amount to a cumulative historic commentary about Defendants' alleged bad acts should be excluded because they have nothing to do with his expertise.

4. The Court should preclude Dr. Margolis from rendering opinions related to product marketing because he has no expertise in this area

5. The Court should exclude Dr. Margolis's sweeping opinions on the propriety of TVT usage that are unreliable and demonstrate his bias.

6. Dr. Margolis lacks the requisite expertise to opine on biomaterial characteristics of TVT and TVT-O, and his opinions regarding these subjects should be excluded.

7. Dr. Margolis has previously demonstrated his propensity to testify using extreme exaggeration and hyperbole, and the Court should preclude him from doing so in the instant cases.

8. The Court should preclude Dr. Margolis from rendering opinions that are not set forth in his expert reports and/or that are not supported by information disclosed in his reliance list included with his expert report.

9. Ethicon incorporates by reference its Memorandum in Support of its Motion to Exclude Certain Opinions of Michael Thomas Margolis, M.D. and the following exhibits:

Exhibit	Description
A	List of Plaintiffs in Wave 1 to whom this Motion applies.
B	Dr. Margolis's Curriculum Vitae.
C	Dr. Margolis's Expert Report on TVT-O.
D	Dr. Margolis's Expert Report on TVT.
E	Excerpts from Deposition of Michael Thomas Margolis, M.D. 11/25/13 in <i>Lewis v. Ethicon, Inc., et al.</i>
F	Excerpts from Deposition of Michael Thomas Margolis, M.D. 11/26/13 in <i>Batiste v. Ethicon, Inc., et al.</i>

- G Excerpts from Deposition of Michael Thomas Margolis, M.D. 11/21/15 in *Carlino v. Ethicon, Inc., et al.*
- H Excerpts from Trial Transcript at 59:22-60:17, *Batiste v. Ethicon, Inc.*, No. DC-12-14350 (95th Judicial District, Dallas County, Texas) (Mar. 24, 2014).
- I Excerpts from Deposition of Michael Thomas Margolis, M.D. 7/19/15 in *Cavness v. Ethicon, Inc., et al.*
- J Excerpts from Deposition of Michael Thomas Margolis, M.D. 7/26/15 in *Rabiola v. Ethicon, Inc., et al.*

WHEREFORE, FOR THESE REASONS and as more fully set forth in Ethicon's supporting memorandum of law, Ethicon respectfully requests that this Court enter an order granting Ethicon's Motion to Exclude Certain Opinions of Michael Thomas Margolis, M.D.

Respectfully submitted,

ETHICON, INC. AND
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CERTIFICATE OF SERVICE

I, Christy D. Jones, certify that on April 21, 2016, I electronically filed this document with the Clerk of the Court using the CM/ECF system which will send notification of this filing to CM/ECF participants registered to receive service in this MDL.

/s/ Christy D. Jones

Christy D. Jones

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